

GUINEA

The Constitution of Guinea was revised in 2001 to introduce the principles of non-discrimination and gender equality.¹ Article 8 upholds equality between men and women as a fundamental right.² Guinea ratified the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) in 1982, but has yet to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.³ Since 2007 Guinea's Civil Code has been under revision to remove a significant number of discriminatory measures regarding parental authority, divorce, child custody and the choice of a place of residence and is scheduled to be submitted soon to the legislative body for adoption.⁴ In addition, a draft of a special law on gender equality has been drafted and is in the process of being adopted, and a national policy on gender was adopted in 2011.⁵

The World Bank classifies Guinea as a low-income country.⁶

1. Discriminatory family code

Article 284 of the Guinean Civil Code states that both men and women under the age of 21 cannot marry without the consent of their father (or the head of the household, if the father is absent).⁷ In terms of the **legal age of marriage**, the Guinean Child Code prohibits men and women under the age of 18 from marrying.⁸ **Early and forced marriages** are, however, still practiced in Guinea.⁹ The United Nations Population Fund (UNFPA) reports that Guinea has one of the highest child marriage prevalence rates in the world. In 2005, 37.9% of girls aged 15-19 were married, divorced or widowed, and over half of women age 20-24 (63%) were married/in union before age 18.¹⁰ More recent data is not, unfortunately, available.

The Civil Code awards certain rights exclusively to the husband, such as **paternal authority**, by which the husband is the sole head of the family. Women are heads of households only when widowed, married to a polygamist who is declared the head of another household, or married to an absent husband.¹¹ As such, the husband has the right to choose the marital home and has sole guardianship of minor children. In the event of divorce or the father's death, a family council selects a guardian, who in turn may also decide who has care of any children over the age of 7. In addition, while men transmit the nationality to their wife and children through

¹ CEDAW (2005) p.6

² Idem, p.14

³ African Commission on Human and Peoples' Rights (2013)

⁴ CEDAW (2013) p.27

⁵ Idem, p.33

⁶ World Bank (n.d.), data: Guinea

⁷ Civil Code of the Republic of Guinea, Article 284 (Code Civil de la République de Guinée)

⁸ Child Code of the Republic of Guinea, Article 268 (Code De L'Enfant Guinéen)

⁹ CEDAW (2013) p.28

¹⁰ UNFPA (2012) p.65; DHS 2005

¹¹ IMF (2012) p.25

marriage, the same is not true for Guinean women who marry foreign men. All of these inequalities are, however, presently under review, and will be eliminated should the draft revised Civil Code be adopted.¹²

There is no specific **inheritance** code, although under the country's Civil Code, widows are entitled to receive one-eighth of the total inheritance; the bulk of the estate is distributed to the couple's children and first-degree descendants.¹³ Under civil law, daughters have the same inheritance rights as sons.¹⁴ In 2005, 25.4% of widows (or their children) inherited the majority of assets after their spouses.¹⁵ Customary forms of levirate and sororate continue to be practiced.¹⁶

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The Civil Code also prohibits **polygamy**¹⁷ although UNICEF reports that 53% of women aged 15-49 are in polygamous unions.¹⁸ There is clear relationship between early marriage and polygamy, with just under 80% of women aged 20-24 who had been married before they turned 18 reporting that they were in a polygamous union.¹⁹

The right for women to **divorce** is recognized under Guinean law, but women tend to fare poorly in proceedings as men are generally awarded custody of children over 7 and they tend to receive the majority of communal assets.²⁰

While more recent data is not available, the Demographic and Health Survey (DHS) reported that in 2005, 47.4% women report that it their husbands alone who make **decisions** about important household purchases, and 39.7% declare that it is their husbands who solely make decision concerning daily purchases.²¹

2. Restricted physical integrity

There is a lack of legislation criminalizing **domestic violence**, although charges for wife beating can be filed under the Penal Code, for general assault, which carries sentences of two to five years in prison and fines up to 300,000 Guinean francs.²² Due to fear of stigmatization and reprisal, women rarely report abuse, and although assault constitutes grounds for divorce under civil law, police rarely intervene in domestic disputes.²³ In 2007, a survey by the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) found that 22% of women declared themselves victims of domestic violence.²⁴ As most incidents are not reported and are dealt with within the family, it is likely that the actual prevalence rate is much higher.²⁵ Domestic violence appears to be widely accepted among women as a fact of married life: when presented with a list of five

¹² CEDAW (2013) p.28

¹³ Civil Code of the Republic of Guinea, Articles 483-485 (Code Civil de la République de Guinée)

¹⁴ CEDAW (2007) p.11

¹⁵ Chronic Poverty Research Centre (2011) p.20

¹⁶ CEDAW (2013) p.25

¹⁷ Civil Code of the Republic of Guinea, Article 315 (Code Civil de la République de Guinée)

¹⁸ UNICEF (2005) p.21

¹⁹ UNICEF (2005) p.7

²⁰ Emery (2013) p.524

²¹ DHS (2005) p.53

²² Penal Code of the Republic of Guinea, Article 295 (Code Penal de la République de Guinée)

²³ US State Department (2012)

²⁴ Treaty Monitor Body (2007)

²⁵ CEDAW (2007) p.27

different 'reasons' for a man to beat his wife in the 2005 Demographic and Health Survey (DHS) questionnaire, 86% of women agreed with at least one of them.²⁶

There is similarly no law that addresses **sexual harassment** in Guinea, nor is sexual harassment addressed in other legislation.²⁷

Rape is also punishable under the criminal code, but a strong social stigma discourages women from pressing charges, and very few cases are prosecuted.²⁸ The US State Department reports that police records indicate that in 2012, 18 rape cases were brought to the Office for Protection of Women, Children and Morals. The law does not recognize the concept of spousal rape, and thus makes no special provisions for its punishment.²⁹ The Child Code is somewhat stricter with regard to perpetrators of all forms of violence against girls: article 352 bans the rape of children, with prison time and fines rising when children are under the age of 14.³⁰ While support for victims of domestic violence and rape remains limited, four pilot shelters have been established in areas with the highest prevalence of gender-based violence³¹, and Government bodies for the advancement of women and NGOs continue to campaign widely for the eradication of gender based violence.³² In addition, in early 2013, a member of the gendarme was indicted for rape during the stadium massacre of pro-democracy protesters linked in the military junta in September of 2009.

Female genital mutilation (FGM) has been illegal under the Penal Code since 2000, and the government has supported national campaigns to promote eradication.³³ But legislation appears to have been largely ineffective, as approximately 9 out of 10 of women are circumcised (the 2005 Demographic and Health Survey (DHS) reports 96% of women have experience FGM), and there is little variation in regard to place of residence (urban and rural), region, or education levels.³⁴ Complaints against FGM have never been filed, in that victims fear judges will refuse to punish such acts.³⁵ In addition to the Penal Code, the Government has prohibited the practice in medical centres, although this measure has had little effect in that the procedure usually takes place outside of the formal medical system. Joint programs to fight FGM have also been organized between the Guinean government and local NGOs and international organizations.³⁶

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Abortion is only legal in Guinea on certain grounds, such as to save a woman's life.³⁷

Under Guinean law, women have the right to decide the number and spacing of their children.³⁸ Recent data on **contraception** for Guinea is not available. However, the 2012 Demographic and Health Survey (DHS) reports that 7% of sexually active women use a modern method of contraception (the same percentage reported in the 2005

²⁶ DHS (2005) p.55

²⁷ CEDAW (2013) p.33

²⁸ US State Department (2012)

²⁹ Idem

³⁰ Child Code of the Republic of Guinea, Article 352 (Code De L'Enfant Guinéen)

³¹ CEDAW (2013) p.8

³² CEDAW (2013) p.25

³³ CEDAW (2013)

³⁴ Idem, p.29; DHS (2005) p.222

³⁵ CEDAW (2013) p.29

³⁶ Idem

³⁷ Center for Reproductive Rights (2013)

³⁸ US State Department (2012)

DHS).³⁹ The same survey reports that 24% of women do not want to become pregnant but are not using contraception.⁴⁰ Women's access to reproductive and general health services may be controlled by their husbands: in the 2005 DHS, 50.6% of women reported that their husbands made decisions about their wives' health without consulting them.⁴¹

3. Son bias

The male/female **sex ratio** for the working age population (15-64) in 2013 is 1 and the sex ratio at birth is 1.03.⁴²

There is no evidence to suggest that Guinea is a country of concern in relation to **missing women**.

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Demographic and Health Survey (DHS) data from 2012 indicates that parents are slightly more likely to vaccinate boys than girls – 48.3% as against 39.3%.⁴³ Both boys and girls suffered from stunting and malnutrition in relatively equal proportions.⁴⁴ While education levels are not available in the preliminary results of the 2012 DHS, the 2005 DHS found a considerable discrepancy between the literacy levels of boys and girls aged 15-19 – 63.4% of girls could not read at all, against 33.4% of boys.⁴⁵

Son preference is not marked in regard to early childhood care, but is marked in regard to access to education, and may also be linked to the on-going practice of early marriage.

4. Restricted resources and assets

Guinean land law grants equal rights to women and men.⁴⁶ However, customary practices prohibit women from inheriting **land**. Instead, they are entitled to hold land only on a usufruct basis, which authorises them to work family-owned land and draw a wage.⁴⁷

The Guinean Constitution (articles 1 and 15) guarantees men and women equal access to **non-land assets**, at the time of marriage, spouses can establish a contract specifying the division of ownership.⁴⁸ When women marry, they have the right to retain control over and use of assets that they own independently of their husbands.⁴⁹

The Civil Code does not discriminate against women in Guinea with regard to their legal right to access **financial services**, including bank loans and other forms of credit.⁵⁰ But in practice, access to bank loans is difficult for Guinean women, particularly in rural areas; this is mainly because they are unable to meet the conditions set by commercial banks.⁵¹ Local credit systems have had limited impact.⁵² As a result, a traditional form of accessing

³⁹ DHS (2012) p.9; DHS (2005) p.80

⁴⁰ Idem, p.114

⁴¹ Idem, p.53

⁴² CIA (2013)

⁴³ DHS (2012) p.13

⁴⁴ Idem, p.18

⁴⁵ DHS (2005) p.40

⁴⁶ CEDAW (2013) p.25

⁴⁷ FAO et al. (2004) p.33

⁴⁸ CEDAW (2005) p.19

⁴⁹ CEDAW (2005) p.36

⁵⁰ CEDAW (2013) p.25

⁵¹ Idem

⁵² CEDAW (2005) p.36

credit, the ‘tontine’ remains the main means by which many women access credit (according to the 2005 Convention on the Elimination of All forms of Discrimination against Women (CEDAW) report, 41% of tontine members at that time were women).⁵³ According to the Permanent Secretariat for the Strategy for Poverty Reduction, women face de facto discrimination in accessing financial services.⁵⁴

5. Restricted civil liberties

Freedom of movement and **access to public space** within the national territory is a constitutional right, but married women are not entitled to choose their place of residence: this is the husband’s right as head of the household, under article 331 of the Civil code (in the redrafted civil code this clause has been removed).⁵⁵ Women’s movement may also be restricted on a day-to-day basis: in the 2005 Demographic and Health Survey (DHS), 41.1% of women reported that they were unable to visit friends and relatives without their husband’s permission⁵⁶ and 72.4% agreed their husband was justified in beating them if were to go out without telling him.⁵⁷ In addition, while men may pass their nationality to their wife and children through marriage, the same does not hold for Guinean women who choose to marry a foreign man.⁵⁸

Although the Constitution provides for freedom of assembly, the latter is restricted both in law and in practice. For example, the law bans meetings that have either an ethnic or racial nature, or ‘whose nature threatens national unity.’ Permits are required for public gathering and requests are frequently denied or prohibited due to the belief that they pose a threat to public order. Demonstrations that have taken place are often characterized by the use of excessive force on the part of security forces. For example, a women-led sit-in in April of 2012 to express concern over legislative election procedures was dispersed with tear gas, kicking, and hitting, justified by the government deeming the demonstration to be unauthorized.⁵⁹

Women have full right to equal participation with men in the formal political sphere.⁶⁰ As of 2012, there were 36 women on the 155-seat National Transition Council (CNT), Guinea’s current legislative body, including the president. Five of the 28 cabinet ministers were women.⁶¹ There are only 8 sub-prefects compared to 296 men, and only 1 out of the 301 assistant prefects is a woman, while 3 out of 38 mayors are women.⁶² The electoral code, however, requires not only that every district or neighbourhood council must reserve at least 30% of its membership to women (article 103), but also that this same **quota** applies to candidate lists for elections to municipal councils (article 115) and national assembly seats (article 129).⁶³ However, at the local level, women are underrepresented. For instance, there is only one female Region governor, compared to 7 men and 3 female prefects, out of 33. The low representation of women in decision-making bodies stems in part from the fact that these laws are not well known, nor applied in practice.⁶⁴

⁵³ Idem

⁵⁴ Permanent Secretariat for the Strategy for Poverty Reduction (n.d.)

⁵⁵ CEDAW (2013) p.28

⁵⁶ DHS (2005) p.53

⁵⁷ DHS (2005) p.55

⁵⁸ CEDAW (2013) p.28

⁵⁹ US State Department (2012)

⁶⁰ CEDAW (2013) p.13

⁶¹ US State Department (2012)

⁶² CEDAW (2013) p.14

⁶³ CEDAW (2013) p.13

⁶⁴ Idem, p.14

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The principle of equality in **employment** is outlined in article 20 of the Constitution, and gender discrimination in employment recruitment is outlawed under Guinea's Labour Code.⁶⁵ Pregnant women are entitled to 14 weeks paid **maternity leave** paid by the employer and the government, and cannot be dismissed during this time.⁶⁶ There are no discriminatory provisions regarding remuneration, although a gender pay gap persists.⁶⁷ These laws only apply to women working in the formal economy. In 2008, the World Bank considered 79% of women to be economically active.⁶⁸ Continued hostility in society to the idea of women's financial independence limits women's employment opportunities in Guinea, as do low levels of education among women.⁶⁹

⁶⁵ CEDAW (2013) p.13

⁶⁶ Idem

⁶⁷ Idem

⁶⁸ World Bank (n.d.) data on labour participation rates

⁶⁹ CEDAW (2013) p.31

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